

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

ELAINE R. SMITH,

Plaintiff,

Case No. 3:23-cv-365

vs.

MIAMI VALLEY HOSPITAL, *et al.*,

District Judge Michael J. Newman

Defendants.

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**ORDER DENYING WITHOUT PREJUDICE  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT (Doc. No. 35)**

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This case is before the Court upon Defendants' motion for partial summary judgment (Doc. No. 35), which remains pending even though Defendants have filed a Notice of Appeal (Doc. No. 58). Defendants are appealing this Court's Order (1) denying Defendants' motion to stay discovery pending a ruling on a motion for partial summary judgment; and (2) holding the qualified immunity determination in abeyance. Doc. No. 56.

“The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Greer v. Strange Honey Farm, LLC*, 114 F.4th 605, 612 (6th Cir. 2024) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam)). A limited exception to this general “jurisdiction-divestiture rule” exists “for a notice of appeal from a ‘clearly nonappealable order[.]’” *Id.* (quoting *Cochran v. Birkel*, 651 F2d 1219, 1221 (6th Cir. 1981)).

In the instant case, it is reasonably debatable whether the Order now on appeal (Doc. No. 56) constitutes a “clearly nonappealable order” due to its potential impact on the qualified

immunity arguments Defendants raise in their motion for partial summary judgment. *See* Doc. No. 35. Consequently, Defendants' appeal triggers the general jurisdictional-divestiture rule, meaning this Court presently lacks jurisdiction to rule on Defendants' motion for partial summary judgment. *See Greer*, 114 F.4th at 612.

Accordingly, the Court **DENIES** Defendants' motion for partial summary judgment **WITHOUT PREJUDICE** to refiling after the conclusion of Defendants' current appeal.

**IT IS SO ORDERED.**

January 17, 2025

s/Michael J. Newman

Hon. Michael J. Newman  
United States District Judge